



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/161988

PRELIMINARY RECITALS

Pursuant to a petition filed November 13, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on December 09, 2014, at Racine, Wisconsin.

The issue for determination is whether the agency correctly calculated Petitioner FoodShare (FS) benefits effective November 1, 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Rhonda Kramer

Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Corinne Balter

Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County. Petitioner is a household of one.
2. On October 30, 2014 Petitioner completed a renewal for her FoodShare (FS) benefits. During her renewal Petitioner reported that her monthly gross income from social security is \$1,062.90.

Petitioner pays \$425 in monthly rent. Her heat is included in her rent, but she is responsible for all other utilities. Petitioner also reported medical costs of \$104.90.

3. Effective November 1, 2014 Petitioner's monthly FS benefits were reduced from \$78 to \$40. The agency provided Petitioner notice of this reduction on October 31, 2014.
4. The Division of Hearings and Appeals received Petitioner's request for fair hearing on November 17, 2014.

DISCUSSION

In calculating the petitioner's FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires that the county start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a household size of 1 is \$152, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted from the income after deductions if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

Previously everyone receiving food shares qualified for the \$446 Heating Standard Utility Allowance. It did matter whether or not the person was responsible for his or her utilities because the Wisconsin Department of Administration (DOA) issued an annual energy assistance payment of \$1 to all FS households who were not already receiving energy assistance.

The 2014 Farm Bill changed Wisconsin's practice of allowing all FS households to take the maximum utility allowance. The 2014 Farm Bill requires a household to have received a WHEAP or energy assistance payment of greater than \$20 to receive the HSUA of \$450. 7 U.S.C. 2014(e)(6)(C)(ii)(I). Therefore, "households that have not received WHEAP will receive the appropriate utility standard based on the utility obligation(s) incurred by the household." *DHS Operations Memo 14-16 Amended*.

In this case Petitioner did not receive WHEAP and her monthly utility obligations are a phone and electricity. Petitioner qualifies for the limited utility allowance, which is \$321 effective October 2014. Previously Petitioner received the heating standard utility allowance of \$446. This caused a decrease in Petitioner's monthly FS benefit from \$78 to \$40.

I note that Petitioner provided additional medical costs at the hearing on December 9, 2014. These expenses were not reported to agency prior to December 2014. Following FS policy this change will be effective January 2015, the month following the report.

I have reviewed the agency's calculations of Petitioner's FS benefits in November and December 2014. The calculations are correct. Petitioner agrees that the amounts the agency used in their calculations are the correct amounts she reported to the agency. Petitioner's FS benefits will likely increase in January due to the additional medical expenses reported at the December 9 hearing.

CONCLUSIONS OF LAW

The agency correctly calculated Petitioner's monthly FS benefits for November and December 2014.

THEREFORE, it is

ORDERED

That the Petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

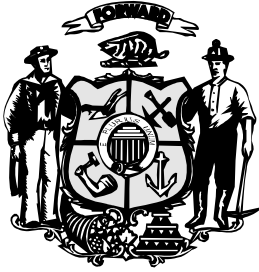
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 11th day of December, 2014

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 11, 2014.

Kenosha County Human Service Department
Division of Health Care Access and Accountability